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FILE NO.: 17070.1002

October 18, 2024

By ECF

The Honorable Valerie Figueredo
United States District Court, SDNY
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-13124

Re: *Elewood Torres v. MMS Group LLC et al.*
Case No. 22 Civ. 6142

Dear Judge Figueredo:

We represent Defendants NYSD Forsyth Housing Development Fund Company, Inc. and NYSD Housing Development Fund Company, Inc., incorrectly sued herein as “Housing Development Fund Corporation,” (collectively, the “Housing Defendants”) in the referenced matter. We write pursuant to Your Honor’s Individual Practice Rules to respectfully request leave to file certain parts of the Housing Defendants’ opposition to Plaintiff’s motion for class certification under seal.¹

To respond to Plaintiff’s motion, we are required to rely upon information that is confidential and protected from public disclosure pursuant to the parties’ Confidentiality Stipulation and Protective Order (ECF Document Number 124) and the Health Insurance Portability and Accountability Act of 1996. Specifically, our opposition papers will attach Plaintiff’s medical records as an exhibit. Additionally, we anticipate that our memorandum of law will reference his medical records in the legal arguments. Because of the protections that apply, we cannot publicly file the motion documents on the Court’s electronic system.²

¹ Defendant T.U.C. Management Company, Inc. joins in this request.

² We emailed Plaintiff’s counsel yesterday to ask if he would consent to filing these documents under seal, but we have not yet received a response. We understand that he is unavailable, potentially due to the Jewish holiday.

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While there is a presumption that court documents are accessible to the public, there is a compelling need to seal where medical information is involved. *See Robinson v. De Niro*, No. 19CV9156LJLKHP, 2022 WL 2712827, at *2 (S.D.N.Y. July 13, 2022). *See Hand v. New York City Transit Auth.*, No. 11-CV-997 RRM MDG, 2012 WL 3704826, at *6 (E.D.N.Y. Aug. 26, 2012) (sealing document containing sensitive medical information). To the extent that there is a public interest in being able to view the information related to the opposition papers, the Housing Defendants can file a redacted version of their memorandum of law.³

Given the sensitive, protected nature of this information, we respectfully request that the Court grant us leave to file under seal any exhibits that contain Plaintiff's confidential medical health information, and an unredacted copy of the Housing Defendants' supporting memorandum of law.

We thank Your Honor for your time and attention to this matter.

Respectfully submitted,

/s/ Kevin G. Donoghue

Kevin G. Donoghue

cc: All Counsel of Record (by)

MEMO ENDORSED



HON. VALERIE FIGUEREDO
UNITED STATES MAGISTRATE JUDGE

DATED: 10-21-2024

Defendants' motion to file Plaintiff's medical records under seal is GRANTED. Defendants may also redact any reference to those medical records contained in their memorandum of law. Defendants are directed to file a redacted version of their memorandum of law and exhibits on ECF. The Clerk of Court is respectfully directed to terminate the motion at ECF No. 144.

³ We note that it would not serve the public interest for Defendants to simply redact the exhibit since they would need to black out the entire page.